

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL LANNING #259428,

Plaintiff,

v.

Case No. 2:05-cv-237

HON. R. ALLAN EDGAR

UNKNOWN SHARRETT

Defendant.

_____ /

MEMORANDUM AND ORDER

Plaintiff Michael Lanning, a prisoner in the custody of the Michigan Department of Corrections, brings this federal civil rights action under 28 U.S.C. § 1983. On March 9, 2006, defendant moved to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) and 42 U.S.C. § 1997e(a) for failure to state a claim upon which relief can be granted and failure to exhaust administrative remedies. [Doc. No. 77].

_____ On September 18, 2006, plaintiff filed a handwritten letter stating that “effective immediately” his action is to be dismissed with prejudice. The Court treats the letter [Doc. No. 92] as a motion by plaintiff Lanning to voluntarily dismiss his complaint with prejudice pursuant to Fed. R. Civ. P. 41(a)(1).

Magistrate Judge Timothy P. Greeley has submitted a report and recommendation that this action be dismissed with prejudice. [Doc. No. 93]. After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1), Fed. R. Civ. P.

72(b) and W.D. Mich. 72.3. The plaintiff's motion to voluntarily dismiss his complaint with prejudice [Doc. No. 92] is **GRANTED**. The defendant's motion to dismiss the complaint [Doc. No. 77] is **DENIED as MOOT**.

A separate judgment will be entered.

SO ORDERED.

Dated: September 19, 2006.

/s/ *R. Allan Edgar*
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE